

Hearing:
November 3, 1999

Paper No. 16
RLS/hlj

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF THE TTAB MAY 31, 00

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re North American Publishing Company

Serial No. 75/341,642

Timothy D. Pecsenty of Blank Rome Comisky & McCauley LLP
for North American Publishing Company

Edward Nelson, Trademark Examining Attorney, Law Office 107
(Margaret Le, Managing Attorney)

Before Simms, Wendel and Holtzman, Administrative Trademark
Judges.

Opinion by Simms, Administrative Trademark Judge:

North American Publishing Company (applicant), a
Pennsylvania corporation, has appealed from the final
refusal to register the mark shown below

for the services of conducting trade shows in the field of magazine production.¹ The Examining Attorney has issued a final requirement that applicant disclaim the words "MAGAZINE TECH" under Section 6 of the Trademark Act. Applicant and the Examining Attorney have submitted briefs and an oral hearing was held.

Relying upon dictionary definitions, the Examining Attorney argues that the words in applicant's mark are merely descriptive of the subject matter of its trade show services (magazines) and the use of technology, technological information or technical issues in magazine production. In other words, applicant's trade shows involve magazine production and the word "tech" is a recognized abbreviation for "technical" or "technology." The Examining Attorney has also pointed to a statement in applicant's specimen brochure that "Anyone interested in learning all the latest technological advances in the industry enabling publishers to work more efficiently and profitably will benefit from this event!" It is the Examining Attorney's position that information one may

¹ Application Ser. No. 75/341,642, filed August 15, 1997, based upon applicant's bona fide intention to use the mark in commerce. During the course of this proceeding, applicant filed an amendment to allege use on October 29, 1998, asserting use and use in commerce since April 1997. The Examining Attorney accepted that amendment. Pursuant to request, applicant has also

glean from applicant's trade shows may include technological improvements and/or technical equipment in connection with the production of magazines.

Applicant, on the other hand, argues that, while such goals as magazine design, artwork, increasing revenues, optimizing advertising space, etc., can be accomplished generally through technology, it cannot be said that applicant's trade shows pertain mainly to the use of technology in magazine production. Further, applicant notes that the Examining Attorney has introduced no evidence of the use of "magazine tech" in common parlance or any dictionary definition of this phrase, or any use by competitors or third parties. Applicant's attorney indicates that a search of the terms "magazine technology" and "magazine tech" in the index of articles published in Tradeshow Week reveals that there is no entry for either of these terms. According to applicant, "MAGAZINE TECH" does not remotely describe the theme or topic of its trade shows. Applicant argues that its mark is only suggestive of the fact that its trade show services are new, exciting and modern. Applicant also contends that its mark is a unitary one which is not descriptive as a whole and that,

entered a description of its mark indicating that the graphical element is a stylized representation of pages turning.

therefore, it is not appropriate to dissect the words from its mark. Finally, applicant argues that we should resolve doubt in favor of applicant and publish its mark for opposition.²

Upon careful consideration of this record and the arguments of the attorneys, we agree with applicant that its mark is not merely descriptive of its services. "Magazine tech" (or "magazine technology") on this record, convey only indirect or vague information about applicant's trade show services and cannot be said to merely describe applicant's trade shows in the field of magazine production. Rather, we believe that applicant's mark is correctly described as a suggestive one. Accordingly, the requirement for a disclaimer of the words "MAGAZINE TECH" is reversed.

However, we agree with the Examining Attorney that the prominent word "MAGAZINE" shown in applicant's mark is clearly descriptive of applicant's trade show services in the field of magazine production. We also note that applicant's attorney, at the oral hearing, conceded that this part of applicant's mark is descriptive and indicated

² In a reply brief, applicant has raised a general objection to material attached to the Examining Attorney's appeal brief. To the extent that this evidence includes dictionary definitions (some of which have previously been made of record), of which we may take judicial notice, the objection is overruled.

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a willingness to disclaim this word in applicant's mark.
Accordingly, the following disclaimer will be entered in
this application:

No claim is made to the exclusive right to
use "MAGAZINE" apart from the mark as
shown.

DECISION: The requirement for a disclaimer of the words
"MAGAZINE TECH" is reversed. However, a disclaimer of the
word "MAGAZINE" is hereby entered.

R. L. Simms

H. R. Wendel

T. E. Holtzman
Administrative Trademark
Judges, Trademark Trial
and Appeal Board

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